

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8493 OF 2006

M/s.Sargam Industries ...Petitioner

Versus

Mechmet Engineering & Anr. ...Respondents

Shri M.B.Mehere for the Petitioner.

Shri Shriram S. Kulkarni for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : JUNE 28, 2007.

P.C.:

1. Heard the learned Advocates appearing for the parties. The Petitioner original Plaintiff has taken an exception to order dated 18th November, 2006 passed by the learned trial Judge on the Application made by the Respondents. By the said order, the learned trial Judge has set aside the order to proceed with the suit without written statement and has directed that the written statement filed by the Respondents should be taken on record. The learned Advocate for the Petitioner invited my attention to the earlier orders passed by the trial Court by which similar prayer was not granted. He submitted that the suit was filed in the year 2004 and in view of the amended provisions of the Code of Civil Procedure, 1908 unless a case was made out for existence of extraordinary or exceptional reasons, the Respondents could not have been permitted to file the written

statement long after expiry of the period provided under the provisions of the amended Code.

2. It is true that there is no specific finding recorded in the impugned order regarding existence of exceptional circumstances. However, the net result of the impugned order is that the Respondents will be permitted to contest the suit filed by the Petitioner. Even assuming that the impugned order is illegal, this is not the case where interference can be made in Petition under Article 227 of the Constitution of India.

3. Hence, Writ Petition is rejected. However, the learned trial Judge is directed to decide the suit as expeditiously as possible.

JUDGE